

Paul C. Galm, OSB No. 002600
paul@paulgalmllaw.com
PAUL GALM, ATTORNEY AT LAW, LLC
12220 SW First Street
Beaverton, OR 97005
Phone: (503) 644-9000
Fax: (503) 644-9050

John Devlin, OSB No. 042690
john@johndevlinlaw.com
DEVLIN LAW, P.C.
434 NW 19th Avenue
Portland, OR 97209
Phone: (503) 228-3015
Fax: (503) 660-4079

Josh Lamborn, OSB No. 973090
jpl@pdxinjury.com
THE LAW OFFICE OF JOSH LAMBORN, P.C.
50 SW Pine Street, Suite 301
Portland, OR 97201
Phone: (503) 546-0461
Fax: (503) 914-1507

Of Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

DEREK JOHNSON, personal representative for
the Estate of Rocky Stewart, Deceased,

Plaintiffs,

v.

WELLPATH, LLC, a Delaware corporation;
CORRECT CARE SOLUTIONS, LLC, a Kansas
corporation; COOS COUNTY, an Oregon county;
PATRICIA SAUERBRY, an individual; DANIEL
RYMER, an individual; MARK MAHLUM, an
individual; ROBERT KRAMER, an individual;
JIMMY LAY, an individual; SAMUEL ELEY, an
individual; and JOHN DOES 1-9,

Defendants.

Civil Action No. 6:19-cv-01883-AA

**DECLARATION OF JOHN
DEVLIN IN SUPORT OF
PLAINTIFF'S MOTION FOR
SANCTIONS**

**AUTHORIZED TO BE FILED
UNDER SEAL**

DECLARATION

I, John T. Devlin, under the penalty of perjury declare that the following is true and accurate based upon my personal knowledge or as indicated:

1. I am one of the attorneys for the plaintiff in this case.
2. Attached as Exhibit 1 is a true and correct copy of the Complaint for Violation of Civil Rights (42 USC § 1983) and Supplemental State Claims in this case.
3. Attached as Exhibit 2 is a true and correct copy of County 000036-000058.
4. Attached as Exhibit 3 is a true and correct copy of RSTE CCS 0627-0629.
5. On December 3, 2017, Deputy Mark Mahlum was interviewed by two OSP detectives. There is an audio recording of that interview. Deputy Mahlum told the detectives about he “had mentioned [to Patricia Sauerbry] that Hold 3 was puking.” Mr. Stewart was in Hold 3.
6. Attached as Exhibit 4 is a true and correct copy of excerpts from the deposition of Cody Libbett.
7. Attached as Exhibit 5 is a true and correct copy of County 000270-000271.
8. Attached as Exhibit 6 is a true and correct copy of RSTE CCS 1319.
9. Attached as Exhibit 7 is a true and correct copy of RSTE CCS 1320.
10. Attached as Exhibit 8 is a true and correct copy of RSTE CCS 1289-1292.
11. Attached as Exhibit 9 is a true and correct copy of RSTE CCS 0529-0534.

12. Attached as Exhibit 10 is a true and correct copy of a March 8, 2018 letter from John Devlin to Lindsey Hughes (then-counsel for Correct Care Solutions) and others.
13. Attached as Exhibit 11 is a true and correct copy of Defendant Wellpath, LLC and Correct Care Solutions, LLC's Response to Plaintiff's Supplemental Requests for Admissions.
14. Attached as Exhibit 12 is a true and correct copy of RSTE CCS 11516.
15. Attached as Exhibit 13 is a true and correct copy of RSTE CCS 11471-11477.
16. Attached as Exhibit 14 is a true and correct copy of a May 31, 2018 letter from John Devlin to Correct Care Solutions, LLC and others.
17. Attached as Exhibit 15 is a true and correct copy of a June 20, 2018 letter from John Devlin to Correct Care Solutions, LLC.
18. Attached as Exhibit 16 is a true and correct copy of an August 30, 2018 letter from Eric Neiman to John Devlin.
19. Attached as Exhibit 17 is a true and correct copy of WELLPATH_STEWART_014857.
20. Attached as Exhibit 18 is a true and correct copy of RSTE CCS 11478.
21. Attached as Exhibit 19 is a true and correct copy of RSTE CCS 15508-15509.
22. Attached as Exhibit 20 is a true and correct copy of RSTE CCS 11541-11542.

23. Attached as Exhibit 21 is a true and correct copy of excerpts from the deposition of Robert Martin in Estate of Moreno v. Correctional Healthcare Companies, Inc., et al., Case No. 18-cv-05171 (E.D. Wash.).
24. Attached as Exhibit 22 is a true and correct copy of Declaration of Richard Strickland submitted in Estate of Moreno v. Correctional Healthcare Companies, Inc., et al., Case No. 18-cv-05171 (E.D. Wash.).
25. Attached as Exhibit 23 is a true and correct copy of RSTE CCS 15442-15443.
26. Attached as Exhibit 24 is a true and correct copy of the LinkedIn profile of David Perry (checked on March 7, 2023).
27. Attached as Exhibit 25 is a true and correct copy of RSTE CCS 15482-15485.
28. Attached as Exhibit 26 is a true and correct copy of RSTE CCS 11504-11505.
29. Attached as Exhibit 27 is a true and correct copy of a January 16, 2019 letter submitted in Estate of Moreno v. Correctional Healthcare Companies, Inc., et al., Case No. 18-cv-05171 (E.D. Wash.).
30. Attached as Exhibit 28 is a true and correct copy of RSTE CCS 11560.
31. Attached as Exhibit 29 is a true and correct copy of RSTE CCS 15104-15109.
32. Attached as Exhibit 30 is a true and correct copy of RSTE CCS 11558.
33. Attached as Exhibit 31 is a true and correct copy of a February 24, 2023 letter from Jens Schmidt to John Devlin.
34. Attached as Exhibit 32 is a true and correct copy of RSTE CCS 11506-11513.
35. Attached as Exhibit 33 is a true and correct copy of RSTE CCS 11517-11520.

36. Attached as Exhibit 34 is a true and correct copy of RSTE CCS 11521.

37. Attached as Exhibit 35 is a true and correct copy of Defendant Wellpath, LLC; Correct Care Solutions, LLC and Patricia Sauerbry's Answer and Affirmative Defenses in this case.

38. Attached as Exhibit 36 is a true and correct copy of RSTE CCS 11664-11665.

39. Attached as Exhibit 37 is a true and correct copy of RSTE CCS 11666-11670.

40. Attached as Exhibit 38 is a true and correct copy of RSTE CCS 11671.

41. Attached as Exhibit 39 is a true and correct copy of RSTE CCS 11672.

42. Attached as Exhibit 40 is a true and correct copy of Plaintiff's Rule 37(e) Motion for Default Judgment Against Defendants Correctional Healthcare Companies, Inc. and Correct Care Solutions, LLC for Spoliation of Evidence submitted in Estate of Moreno v. Correctional Healthcare Companies, Inc., et al., Case No. 18-cv-05171 (E.D. Wash.).

43. Attached as Exhibit 41 is a true and correct copy of the Order Granting Plaintiffs' Rule 37(e) Motion for Default Judgment in Estate of Moreno v. Correctional Healthcare Companies, Inc., et al., 2020 WL 5740265 (E.D. Wash. June 1, 2020).

44. Attached as Exhibit 42 is a true and correct copy of RSTE CCS 15531-15557.

45. Attached as Exhibit 43 is a true and correct copy of RSTE CCS 15560.

46. Attached as Exhibit 44 is a true and correct copy of Defendant Wellpath, LLC and Correct Care Solutions, LLC's Response to Plaintiff's Third Set of Interrogatories.
47. Attached as Exhibit 45 is a true and correct copy of Plaintiff's First Request for Production of Documents.
48. Attached as Exhibit 46 is a true and correct copy of Defendant Wellpath, LLC, Correct Care Solutions, LLC, and Patricia Sauerbry's Response to Plaintiff's First Request for Production.
49. Attached as Exhibit 47 is a true and correct copy of a July 2, 2021 letter from John Devlin to Bruce Smith and Aryn Seiler.
50. Attached as Exhibit 48 is a true and correct copy of an August 12, 2021 letter from Bruce Smith and Aryn Seiler to John Devlin.
51. Attached as Exhibit 49 is a true and correct copy of a September 1, 2021 email from Paul Galm to all counsel.
52. Attached as Exhibit 50 is a true and correct copy of a September 10, 2021 email from Paul Galm to all counsel.
53. Attached as Exhibit 51 is a true and correct copy of a September 20, 2021 email from Bruce Smith to Paul Galm.
54. Attached as Exhibit 52 is a true and correct copy of a November 15, 2021 email from Paul Galm to all counsel.

55. Attached as Exhibit 53 is a true and correct copy of a November 24, 2021 letter from Bruce Smith to Paul Galm.
56. Attached as Exhibit 54 is a true and correct copy of a December 21, 2021 email from Paul Galm to all counsel.
57. Attached as Exhibit 55 is a true and correct copy of a January 4, 2022 email from Paul Galm to the Court.
58. Attached as Exhibit 56 is a true and correct copy of a January 24, 2022 email from Paul Galm to the Court.
59. Attached as Exhibit 57 is a true and correct copy of a January 24, 2022 email from Bruce Smith to the Court.
60. Attached as Exhibit 58 is a true and correct copy of the transcript of the January 27, 2022 status conference.
61. Attached as Exhibit 59 is a true and correct copy of a January 28, 2022 email from Paul Galm to all counsel.
62. Attached as Exhibit 60 is a true and correct copy of a February 8, 2022 email from Bruce Smith to Paul Galm.
63. Attached as Exhibit 61 is a true and correct copy of a February 15, 2022 email from Paul Galm to Bruce Smith (without transcript).
64. Attached as Exhibit 62 is a true and correct copy of a February 15, 2022 email from Bruce Smith to Paul Galm.

65. Attached as Exhibit 63 is a true and correct copy of a February 27, 2022 email from Paul Galm to Bruce Smith.
66. Attached as Exhibit 64 is a true and correct copy of a March 8, 2022 email from Paul Galm to Bruce Smith.
67. Attached as Exhibit 65 is a true and correct copy of a March 8, 2022 email from Bruce Smith to Paul Galm.
68. Attached as Exhibit 66 is a true and correct copy of a March 12, 2022 email from Paul Galm to Bruce Smith.
69. Attached as Exhibit 67 is a true and correct copy of a March 30, 2022 email from Paul Galm to the Court (without transcript).
70. Attached as Exhibit 68 is a true and correct copy of the transcript of the April 11, 2022 status conference.
71. Attached as Exhibit 69 is a true and correct copy of an April 14, 2022 email from Julie Albright to all counsel.
72. Attached as Exhibit 70 is a true and correct copy of the transcript of the May 26, 2022 status conference.
73. Attached as Exhibit 71 is a true and correct copy of a June 10, 2022 email from Joanna Ritchie to all counsel.
74. Attached as Exhibit 72 is a true and correct copy of County 004226.
75. Attached as Exhibit 73 is a true and correct copy of a June 21, 2022 email from Paul Galm to Bruce Smith and Iain Armstrong.

76. Attached as Exhibit 74 is a true and correct copy of a July 15, 2022 email from Paul Galm to Bruce Smith and Iain Armstrong.

77. Attached as Exhibit 75 is a true and correct copy of a July 18, 2022 email from Bruce Smith to Paul Galm.

78. Attached as Exhibit 76 is a true and correct copy of the transcript of the July 29, 2022 status conference.

79. Attached as Exhibit 77 is a true and correct copy of Defendant Wellpath, LLC, Correct Care Solutions, LLC, and Patricia Sauerbry's Discovery Proposal.

80. Attached as Exhibit 78 is a true and correct copy of the transcript of the September 15, 2022 status conference.

81. Attached as Exhibit 79 is a true and correct copy of a September 30, 2022 email from Paul Galm to Bruce Smith and Iain Armstrong.

82. Attached as Exhibit 80 is a true and correct copy of an October 4, 2022 letter from Bruce Smith to Paul Galm and others.

83. Attached as Exhibit 81 is a true and correct copy of Defendant Wellpath, LLC, Correct Care Solutions, LLC, and Patricia Sauerbry's Notice and Filing of Affidavit.

84. Attached as Exhibit 82 is a true and correct copy of the transcript of the October 6, 2022 status conference.

85. Attached as Exhibit 83 is a true and correct copy of Defendant Wellpath, LLC's Motion for Extension of Certain Discovery Deadlines.

86. Attached as Exhibit 84 is a true and correct copy of November 2022 emails between Paul Galm and Eric Schoonveld.
87. Attached as Exhibit 85 is a true and correct copy of Corrected Supplemental Affidavit of Sameer Pansare Sr Manager of Forensics and Expert Services, Consilio.
88. Attached as Exhibit 86 is a true and correct copy of the transcript of the December 6, 2022 status conference.
89. Attached as Exhibit 87 is a true and correct copy of the transcript of the January 23, 2023 status conference.
90. Attached as Exhibit 88 is a true and correct copy of Defendant Wellpath, LLC and Correct Care Solutions, LLC's Response to Plaintiff's Supplemental Requests for Admissions.
91. Attached as Exhibit 89 is a true and correct copy of Defendant Wellpath, LLC and Correct Care Solutions, LLC's Response to Plaintiff's Third Set of Interrogatories.
92. Attached as Exhibit 90 is a true and correct copy of a February 9, 2023 email from John Devlin to all counsel.
93. Attached as Exhibit 91 is a true and correct copy of County 001287-001397.
94. Attached as Exhibit 92 is a true and correct copy of excerpts from the deposition of Patricia Sauerbry.

95. Attached as Exhibit 93 is a true and correct copy of excerpts from the first deposition of Kathleen Weaver.
96. Attached as Exhibit 94 is a true and correct copy of County 002616-002617.
97. Attached as Exhibit 95 is a true and correct copy of RSTE CCS 4451 and RSTE CCS 4457.
98. Attached as Exhibit 96 is a true and correct copy of RSTE CCS 9176-9177.
99. Attached as Exhibit 97 is a true and correct copy of a blank Part III – Report and Recommendations Following Mortality or Morbidity Review form.
100. Attached as Exhibit 98 is a true and correct copy of February 20, 2023 emails between Paul Galm and Jens Schmidt.
101. Attached as Exhibit 99 is a true and correct copy of a February 23, 2023 email from Jens Schmidt to Paul Galm.
102. Attached as Exhibit 100 is a true and correct copy of excerpts from the deposition of Brandy Cornelius.
103. Attached as Exhibit 101 is a true and correct copy of an August 18, 2022 email from Josh Lamborn to Bruce Smith.
104. Attached as Exhibit 102 is a true and correct copy of Order, Early v. State of Arizona, et al., Case No. CV 16-00031-PHX-SPL (D. Ariz. May 22, 2018).
105. Attached as Exhibit 103 is a true and correct copy of Order, Brogdon v .Correct Care Solutions, et al., Case No. 1:16-cv-12 (W.D. Pa. May 9, 2017).

106. Attached as Exhibit 104 is a true and correct copy of a July 10, 2019 letter from John Devlin to Wellpath, LLC and others.

107. Attached as Exhibit 105 is a true and correct copy of Complaint for Violation of Civil Rights (42 USC § 1983) and Supplemental State Law Claims, Estate of Butterfield v. Wellpath, et al., Case No. 1:20-cv-00671-CL.

108. Attached as Exhibit 106 is a true and correct copy of a February 27, 2023 letter from Jens Schmidt to John Devlin.

I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED this 10th day of March, 2023.

DEVLIN LAW, PC

/s/ John Devlin

John T. Devlin, OSB No. 042690

Email: john@johndevlinlaw.com

Of Attorneys for Plaintiff